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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,276	12/13/2000	Thomas J. Kolze	36898/LTR/B600	7915
23363	7590	09/15/2005		
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			EXAMINER DUONG, FRANK	
			ART UNIT 2666	PAPER NUMBER
DATE MAILED: 09/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/737,276

Applicant(s)

KOLZE, THOMAS J.

Examiner

Frank Duong

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is a response to communications dated 03/07/05 and 07/11/05.

Claims 18-32 are pending in the applications.

Specification

2. The amendment filed 03/07/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: paragraph inserted beginning at page 25, line 30, "As the CM is initialized, on two channels – one wide band and one narrowband – the parameters applicable to these two channels are received from the CMTS and are both stored in RAM 268 so they are available to the CM without additional initialization" and paragraph, beginning on page 26 having the description starting with "At any rate, one set of parameters stored in RAM 268 is used to control the upstream burst profile for short data packets and another set of parameters stored in RAM 268 is used to control the upstream burst profile for long data packets, as described in connection with block 910 above" .

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

3. Claims 27-28 and 30 are objected to because of the following informalities:

As per claim 27-28, "the wide band channel" and "the narrow band channel" should read --a wide band channel-- and --a narrow band channel--.

As per claim 30, "time slots" should read --time slots.--

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 18-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support for the claimed limitations of *"concurrently storing at the CM a first set of parameters for transmission of data packets having the first property on a first carrier and a second set of property on a second set of carrier"*, as recited in claims 18-30; *"a memory that simultaneously stores at the CM wide-band ranging data for transmission over a wide band and narrow-band ranging data for transmission over a narrow band"*, as recited in claim 31; and *"concurrently storing at the CM wide-band ranging data for transmission on a first carrier having a wide band and narrow-band ranging data for transmission on a second carrier having a narrow band"*, as recited in claim 32.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 18-26 and 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Horton, Jr. et al (USP 6,236,678) (hereinafter "Horton").

Regarding **claim 18**, in accordance with Horton reference entirety, Horton discloses a method for transmitting data between a cable modem (CM) and a cable modem termination system (CMTS) (Fig. 1), the method (Fig. 6) comprising:

receiving at the CM data packets to be transmitted to the CMTS, the data packets having different first (*being sent one time in a contiguous group of minislots*) and second properties (*being sent in two or more groups of minislots*) (*col. 6, lines 33-37 or Fig. 6; block 62 and col. 7, line 63 and thereafter*);

concurrently storing (*Fig. 5; block 56 and col. 5, lines 65-66 and thereafter*) at the CM a first set of parameters (*burst profiles*) for transmission of data packets having the first property on a first carrier and a second set of parameters for transmission of data packets having the second property on a second carrier (*col. 6, line 28 and thereafter*); and

transmitting (*Fig. 5; block 50*) either data packets having the first property over the first carrier using the first set of parameters (*a contiguous group of minislots*) or data packets having the second property over the second carrier using the second set of parameters (*two or more groups of minislots*) (*col. 6, lines 43-59 and thereafter*).

Regarding **claim 19**, in addition to features recited in claim 18 (see rationales discussed above), Horton further discloses receiving assignments of the first and second carriers from the CMTS, the sets of parameters from a CMTS responsive to a request from the CM (*grant message indicating one or more groups of minislots*) (*col. 6, lines 40-59*).

Regarding **claim 20**, in addition to features recited in claim 19 (see rationales discussed above), Horton further discloses in which the first property comprises long data packets (*packets required two group of minislots*) and the second property comprises short data packets (*packets required one group of minislots*) (*col. 6, lines 40-59*).

Regarding **claim 21**, in addition to features recited in claim 19 (see rationales discussed above), Horton further discloses in which the first and second sets of parameters include different ranging data individual to the respective channels (*col. 6, lines 26-33 and thereafter*).

Regarding **claim 22**, in addition to features recited in claim 19 (see rationales discussed above), Horton further discloses in which the first and second sets of parameters additionally include different transmission signal levels individual to the respective channels (*col. 6, lines 26-33 and thereafter*).

Regarding **claim 23**, in addition to features recited in claim 19 (see rationales discussed above), Horton further discloses in which the first and second sets of parameters additionally include different equalization settings individual to the respective channels (*col. 6, line 26 and thereafter, a burst profile downstream sent by the CMTS is discussed. It is inherent there is equalization settings in the downstream burst profile*).

Regarding **claim 24**, in addition to features recited in claim 20 (see rationales discussed above), Horton further discloses alternately transmitting digital signals at a high symbol rate over the wide band channel and digital signals at a low symbol rate over the narrow band channel (*col. 3, line 64-65 and thereafter, cable modem uses either QPSK (narrow band channel) and 16 QAM (wide band channel) are discussed*).

Regarding **claim 25**, in addition to features recited in claim 24 (see rationales discussed above), Horton further discloses transmitting the ranging data to the modem responsive to a request therefrom (*col. 6, lines 5-10 and thereafter*).

Regarding **claim 26**, in addition to features recited in claim 25 (see rationales discussed above), Horton further discloses in which the upstream transmission signal levels are stored individual to the respective channels (*col. 6, lines 5-33 and thereafter*).

Regarding **claim 29**, in addition to features recited in claim 18 (see rationales discussed above), Horton further discloses in which carrier frequencies individual to the respective channels are stored (*col. 3, lines 23-30 and col. 6, lines 5-33 an thereafter*).

Regarding **claim 30**, in addition to features recited in claim 18 (see rationales discussed above), Horton further discloses transmitting from the CMTS MAP information elements that define time slots (*col. 5, lines 51-54 and thereafter*).

(note: As per claims 26-28 and 31-32, due to the problem discussed in the 112, first paragraph rejection above, there is no art to determined their allowability at this time)

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is 571-272-3164. The examiner can normally be reached on 7:00AM-3:30PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Frank Duong', with a stylized, cursive script.

FRANK DUONG
PRIMARY EXAMINER

September 8, 2005